

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

Boimah Flomo, et al.

Plaintiffs,

v.

Firestone Natural Rubber Co.

Defendant

CASE NO.: 1:06-cv-00627-JMS-TAB

The Motion is **DENIED**. Whether or not the ATS precludes corporate liability, the Court has concluded, for the reasons issued in its supplemental opinion, that summary judgment here must issue. -- JMS, DJ, 10/19/10

**PLAINTIFFS' MOTION FOR RECONSIDERATION OR, IN THE ALTERNATIVE,
MOTION TO STAY THE PROCEEDINGS PENDING A FINAL RULING IN THE
SECOND CIRCUIT**

On October 5, 2010, this Court issued an order in which it adopted the Second Circuit's recent ruling in the *Kiobel v. Royal Dutch Petroleum Co.*, 2010 U.S. App. LEXIS 19382 (2d Cir. 2010) and held that Defendant Firestone Natural Rubber Company cannot be held liable under the Alien Tort Statute ("ATS") because it is a corporation. *See* Dkt. 604, at 3-12. As Plaintiffs previously alerted the Court in their September 24, 2010 supplemental briefing on the issue of corporate liability, Dkt. 598, Plaintiffs-Appellants-Cross-Appellees' counsel in *Kiobel* filed their Petition for Rehearing and Rehearing *En Banc* on Friday, October 15, 2010. The petition was supported by six detailed *amici curiae* briefs from human rights and labor organizations, professors of federal jurisdiction and legal history, international law scholars, and victims of international terrorism all of whom address errors in the panel's decision in *Kiobel* and argue there is overwhelming legal support that corporations are liable under the ATS.

Because the Court relied exclusively on the Second Circuit's *Kiobel* decision in rendering its October 5, 2010 ruling, Plaintiffs submit the petition for rehearing *en banc*, along with the